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HUMAN RIGHTS COMMITTEE

Forty-second session

SUMMARY RECORD OF THE 1091st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 26 July 1991, at 10 a.m.

Chairman: Mr. POCAR

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Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.91-17056/3824B

The meeting was called to order at 10.30 a.m.

ANNUAL REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY THROUGH THE ECONOMIC AND SOCIAL COUNCIL UNDER ARTICLE 45 OF THE COVENANT AND ARTICLE 6 OF THE OPTIONAL PROTOCOL (agenda item 6) (continued) (CCPR/C/42/CRP.1/Add.10, 12, 15, 16, 17, 18, 19 and 25)

1. The CHAIRMAN invited the Committee to adopt the recommendations it would be making to the Preparatory Committee for the World Conference on Human Rights (CCPR/C/42/CRP.1/Add.25). The text would appear in an annex to the Committee's annual report. If there were no objections, he would take it that the recommendations were adopted.

2. It was so decided.

Document CCPR/C/42/CRP.1/Add.10 (Sweden) (continued)

Paragraphs 6 to 10

3. Paragraphs 6 to 10 were adopted.

Paragraphs 11 to 17

4. Mr. ANDO (Rapporteur) said that in lines 10 and 11 of paragraph 16 the phrase "all compulsory care orders were subject to examination by the courts" should be amended so as to make clear that compulsory care orders were decided upon by the courts.

5. Paragraphs 11 to 17, including paragraph 16, as orally amended, were adopted.

Paragraphs 18 to 33

6. Mr. ANDO (Rapporteur) said that, for the sake of clarity, the second sentence of paragraph 33 should be amended to read: "When a decision to prohibit removal of a child was taken by the social welfare committee, the committee was also authorized to decide on the parents' access to the child during the period of prohibition".

7. Paragraphs 18 to 32 and paragraph 33, as orally amended, were adopted.

Paragraphs 34 and 35

8. Paragraphs 34 and 35 were adopted.

Paragraphs 36 to 38

9. Miss CHANET said she thought that the fourth sentence of paragraph 36 might give rise to confusion, particularly in view of what was stated in paragraph 16 as orally amended. It should be recalled that the Swedish delegation had not expressed itself very clearly on the question of the

compulsory treatment of alcoholics and drug offenders, and that clarification had been provided subsequently by Mr. Wennergren, when consideration of the State party's report had been completed. It would thus be preferable to delete the fourth sentence of paragraph 36 altogether.

10. Mr. ANDO (Rapporteur) agreed and proposed that the sentence concerned be deleted.

11. It was so decided.

12. Document CCPR/C/42/CRP.1/Add.10, as orally amended, was adopted.

Document CCPR/C/42/CRP.1/Add.12 (Panama)

Paragraphs 1 to 3

13. Paragraphs 1 to 3 were adopted.

Paragraph 4

14. Mr. PRADO VALLEJO requested that the following text be added at the end of paragraph 4: "Members of the Committee wished to have information on the legal situation prevalent in Panama as a result of the invasion, including the measures adopted to guarantee to citizens the rights set forth in the Covenant, especially in view of the presence of foreign troops which had exercised internal control with the consent of the Government. They asked about the legal basis of confiscation, without legal process, of property belonging to alleged collaborators with the former regime and what compensation was to be paid to persons whose homes and workplaces in various working-class areas of Panama City and Colón had been destroyed by bombing".

15. Paragraph 4, as orally amended on the basis of Mr. Prado Vallejo's proposal, was adopted.

Paragraphs 5 to 15

16. Paragraphs 5 to 15 were adopted.

Paragraph 16

17. Mr. PRADO VALLEJO requested that the following sentence be added at the end of paragraph 16: "Members of the Committee asked what actions had been taken to investigate cases of disappearances before, during and after the invasion, and what cooperation the Government had given in order to open the common graves found in various places and to compensate the victims' families".

18. Paragraph 16, as orally amended on the basis of Mr. Prado Vallejo's proposal was adopted.

Paragraphs 17 to 21

19. Paragraphs 17 to 21 were adopted.

Paragraph 22

20. Mr. PRADO VALLEJO said he would like the following sentence to be added at the end of paragraph 22: "Members of the Committee wished to know about the situation of asylum seekers in various diplomatic missions, and what the Government's grounds were for not granting them safe conduct pursuant to the inter-American conventions on asylum ratified by Panama".

21. Paragraph 22, as orally amended on the basis of Mr. Prado Vallejo's proposal, was adopted.

Paragraphs 23 to 33

22. Paragraphs 23 to 33 were adopted.

Paragraph 34

23. Mr. PRADO VALLEJO said he wished the following sentence to be added at the end of paragraph 34: "Members of the Committee pointed out that the banning of peaceful demonstrations and the imposing of penalties on participants constituted violations of the rights guaranteed under the Covenant, and asked whether the decisions to expel opponents of the Government from the administration and trade unions were to be lifted".

24. Paragraph 34, as orally amended on the basis of Mr Prado Vallejo's proposal, was adopted.

Paragraphs 35 to 37

25. Paragraphs 35 to 37 were adopted.

Paragraphs 38 and 39

26. Mr. LALLAH considered that the text of the general observations made by members of the Committee following consideration of the report of Panama seemed much too short, particularly in view of the oral amendments made on the basis of Mr Prado Vallejo's proposals.

27. Mr. PRADO VALLEJO said he would indeed like the Rapporteur to make sure that the Committee's general observations were amplified, particularly as many of the questions put by Committee members to the delegation of Panama had remained unanswered.

28. Mr. WENNERGREN, referring to the fourth sentence of paragraph 38, side he would like to know what was to be understood by "unionization": would it not be better to speak of the formation of trade unions?

29. Mr. AGUILAR URBINA pointed out that what was meant was not only the right to form trade unions, but also the right to join a trade union.

30. Mr. LALLAH said that, in the fourth sentence of paragraph 38, he would like mention to be made of the concerns expressed by the Committee on the subject of restrictions imposed on aliens in regard to trade union membership.

31. The CHAIRMAN suggested, for his part, that paragraph 39 should be amended by deleting the word "extremely" before "constructive" in the first sentence and by substituting the phrase "to some extent" for the word "largely" in the second sentence.

32. Mr. AGUILAR URBINA agreed with the second of those proposals, but thought it was still too generous to say that the delegation of Panama had made a "constructive" contribution to the dialogue considering the fact that it had left a large number of questions unanswered.

33. Mr. SADI pointed out that it was the Committee's traditional practice to speak of constructive participation in the dialogue, and that States parties should be encouraged to cooperate further with the Committee.

34. The CHAIRMAN said that the text of paragraph 39 took into account the statement made by the Chair at the conclusion of the general observations and that the word "constructive" had indeed been used, as could be seen from the summary record. He proposed that the Committee should leave it to the Rapporteur to reword paragraphs 38 and 39 in accordance with of the amendments formulated, and also in the light of the changes made to the preceding paragraphs on the suggestion of Mr. Prado Vallejo.

35. It was so decided.

36. Document CCPR/C/42/CRP.1/Add.12 was adopted, as amended, and subject to the changes to be made by the Rapporteur.

Document CCPR/C/42/CRP.1/Add.15 (Madagascar)

Paragraphs 1 to 41

37. Paragraphs 1 to 41 were adopted.

Paragraphs 42 to 45 (General comments)

38. Miss CHANET said that she would like paragraph 42 to begin with the word "Members" and not "The members", because what was stated in the rest of that paragraph did not necessarily reflect the views of all members, or at least did not reflect her own view as far as the third sentence was concerned.

39. Mr. ANDO (Rapporteur) said he would delete the word "The" at the beginning of the paragraph.

40. Mr. WENNERGREN, commenting on the third sentence of paragraph 43, which noted the local authorities' apparent lack of control over thefts of cattle and the resulting problems of "personal revenge", said that he would like the sentence to be worded differently, as it concerned the behaviour of people who had been victims of theft and wanted to take the law into their own hands.

41. Mr. LALLAH proposed that the word "retaliation" should be used instead of the phrase "personal revenge".

42. Mr. WENNERGREN agreed to that amendment.

43. Paragraphs 42 to 45, as amended, were adopted.

44. Document CCPR/C/42/CRP.1/Add.15, as amended, was adopted.

Document CCPR/C/42/CRP.1/Add.16 (Jordan)

45. Document CCPR/C/42/CRP.1/Add.16 was adopted.

Document CCPR/C/42/CRP.1/Add.17 (Iraq)

46. Paragraphs 1 to 7 were adopted without change.

Paragraphs 8 to 14 (Right to life)

47. Miss CHANET, referring to paragraph 8, said that she had asked a question concerning the execution of children. While some replies appeared later in the draft report, the question itself was not mentioned, and that omission should be rectified.

48. Mr. PRADO VALLEJO pointed out that he had questioned the delegation of Iraq about the manufacture of the atomic bomb, but in paragraph 8 no mention was made of that very serious concern.

49. Mr. ANDO (Rapporteur) said that the matter of the atomic bomb was referred to in another part of the draft report. He would see to it that the reference was inserted at the appropriate place.

50. Paragraphs 8 to 14 were adopted, subject to the amendments requested orally.

Paragraphs 15 to 21 (Treatment of prisoners and other detainees)

51. Miss CHANET proposed that the word "abus" in the first sentence of the original French version of paragraph 17 should be replaced by the word "tortures".

52. The proposal was adopted.

53. Paragraphs 15 to 21, as amended, were adopted.

54. Following a discussion in which Mr. WENNERGREN, Miss CHANET, Mr. LALLAH and Mr. SADI took part, paragraphs 22 to 27 (Liberty and security of the person) were adopted without change.

55. Paragraphs 28 to 32 (Rights of persons belonging to minorities) were adopted without change.

Paragraphs 33 to 38 (General observations)

56. Miss CHANET said that since she had read the paragraphs concerned in English only, she would like it to be clearly understood that in the French version the phrase "Members of the Committee" would be translated by "Les membres". In the fourth sentence of paragraph 34, she was not sure that the choice of the word "absolve" was appropriate.

57. In the first sentence of paragraph 35, she would like some qualifying word such as "notably" or "in particular" to be added, to indicate that the repressive action of the Government of Iraq were directed especially, but not exclusively, against the Kurds and the Shiites.

58. In the first sentence of paragraph 36, it was perhaps unnecessary to state that the Committee's criticisms had been "perhaps disagreeable for the delegation to hear". In the same sentence, it would be better to say that "all persons under Iraq's jurisdiction" should enjoy the rights and freedoms enshrined in the Covenant (and not merely "all Iraqis").

59. Mr. ANDO (Rapporteur) said he had no objection to deleting the phrase "and perhaps disagreeable for the delegation to hear". The word "absolve", on the other hand, had actually been used by a member of the Committee.

60. The CHAIRMAN, supported by Mr. PRADO VALLEJO, pointed out that following consideration of Iraq's report he had stated not only that a number of issues had not been taken up for lack of time but also that some of the questions raised had remained unanswered. That should be indicated in the first sentence of paragraph 38; it would be sufficient to add a phrase along the following lines: "... and that a number of questions that had been raised had remained unanswered".

61. Mr. WENNERGREN said he had some doubts as to the accuracy of the statement made in the first sentence of paragraph 35 with regard to the existence in Iraq of the death sentence without any possibility of appeal; as he recalled, the Iraqi delegation had explained that with the abolition of the revolutionary courts, there would be a possibility of recourse.

62. Miss CHANET pointed out that the purpose of the report was not to establish the factual truth but simply to give an account of what had been said. Some members of the Committee had indeed laid particular stress on the matter of death sentences without any possibility of appeal.

63. Mr. PRADO VALLEJO said he had been concerned that the specially constituted courts had passed a number of death sentences for the crime of food-hoarding, and that the condemned persons had been without recourse because no appeal against the sentence was allowed. He had thus not only stated that death sentences had been passed without any possibility of appeal, but had also laid stress on the existence of special courts. He hoped that those two points would be reflected in the report.

64. The CHAIRMAN requested the Rapporteur to take note of those points and include them in the report.

65. Paragraphs 33 to 38 were adopted, subject to the changes requested.

66. Document CCPR/C/42/CRP.1/Add.17 as a whole was adopted, subject to the changes requested, and as orally amended.

Document CCPR/C/42/CRP.1/Add.19 (Communications)

67. Paragraph 1 was adopted without change.

Paragraphs 2 to 8 (Section A)

68. Mr. ANDO (Rapporteur) read out the figures to be inserted in the spaces left blank in paragraphs 2 to 8.

69. In addition, the second sentence in paragraph 5 should read: "The French version was issued in July 1991; the Spanish version is to be issued in autumn 1991".

70. Paragraphs 2 to 8, as orally amended, were adopted.

Paragraph 9 (Section B)

71. Mr. ANDO (Rapporteur) stated that the number of cases pending was 158.

72. Miss CHANET asked whether it would be possible to find a somewhat toned-down form of words which would avoid saying - as in the third sentence - that the Committee could no longer examine communications as expeditiously as hitherto, while at the same time retaining the idea that there was a need to reinforce the Secretariat staff.

73. Mr. HERNDL said that, on the contrary, the time had come for the Committee to indicate in the clearest possible terms that it had reached a critical stage so far as the examination of communications was concerned.

74. Mr. LALLAH considered the best form of words was that of the existing text.

75. The CHAIRMAN said that in a previous report (A/44/40) it was indicated, in paragraph 618, that the number of cases pending would continue to grow and that it might not be possible to act on all communications in a timely fashion. A similar wording could perhaps be used in paragraph 9.

76. Mr. LALLAH said he thought the wording used in the text of paragraph 9 as it stood was the most appropriate, because it made clear that the situation had evolved. It was a fact that the Committee did not have the means to work as expeditiously as it had in the past.

77. Mr. ANDO (Rapporteur) and Mr. HERNDL shared that view.

78. The third sentence of paragraph 9 was retained as it stood.

79. Paragraph 9 was adopted.

80. Paragraphs 10 to 13 (Sections C and D) were adopted without change.

Paragraphs 14 to 51 (Sections E to J)

81. Mr. ANDO (Rapporteur) proposed that paragraph 15 should be amended so as to indicate that no individual opinion had been appended to the Committee's views, but that individual opinions had been appended to decisions on the admissibility of certain communications.

82. He further proposed the deletion of paragraphs 31 and 43 and the second sentence of paragraph 32, which all dealt with communication No. 230/1987; that would mean also deleting the word "Similarly" at the beginning of paragraph 33. In paragraph 47, the words "for a period of one year" should be added at the end of the third sentence.

83. He endorsed a proposal by Mr. Fodor to add to the document a paragraph 52 which would deal with replies received - or not received - by the Secretariat from States parties concerning measures taken in pursuance of the Committee's views on certain communications, and would indicate the specific time-limits set for each of the States parties concerned.

84. The CHAIRMAN said he felt that there was no need to specify the time-limits indicated to States parties. It would be enough to say that, taking into account the time-limits that had been set, the Special Rapporteur hoped that further information would reach the Secretariat before the next session, so that he could submit a more substantial interim report on the matter. In his view, the paragraph proposed by Mr. Fodor should take the form of a new paragraph 48. However, he suggested that it should be left to the Secretariat to decide what was the most appropriate place for such a paragraph.

85. Mr. ANDO (Rapporteur) read out a paragraph embodying Mr. Fodor's proposal to the following effect: "In regard to measures taken by States parties in pursuance of the Committee's views, the Secretariat has very recently received replies from Colombia, Peru and Trinidad and Tobago. The Secretariat is still awaiting replies from the following States parties concerning a number of other communications: Bolivia, Canada, Colombia, Dominican Republic, France, Jamaica, Madagascar, Netherlands, Peru, Suriname, Trinidad and Tobago, Uruguay, Venezuela and Zaire".

86. The CHAIRMAN pointed out that the Committee had already considered what part of the report to devote to the replies of States parties. It had been suggested that, for the time being, such replies should not be reproduced in extenso in an annex. In fact, the Committee had now appointed a Special Rapporteur for Follow-Up of Views, whose task was to deal with substantive replies from States parties and to report on them in summary form. It was thus not necessary to reproduce the replies in full in an annex.

87. If there were no objections, he would take it that the Committee wished to adopt that decision.

88. It was so decided.

89. Paragraphs 14 to 51 were adopted, subject to the proposed amendments.

Document CCPR/C/42/CRP.1/Add.18 (Chapter IV - General comments of the Committee)

90. The CHAIRMAN, observing that there was not the necessary quorum to adopt document CCPR/C/42/CRP.1/Add.18, proposed that the Committee should defer its decision to the next session. He drew the Rapporteur's attention to the fact that paragraph 1 of that document would have to be amended accordingly.

91. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

92. The CHAIRMAN invited the Committee to designate a Special Rapporteur for Follow-Up of Views for the coming year. As he understood it, the Committee's Rapporteur had proposed that Mr. Fodor's mandate should be renewed. In the absence of any objection, he would take it that the Committee decided to renew Mr. Fodor's mandate as Special Rapporteur for Follow-Up of Views. He would leave it to the secretariat of the Committee to draft a sentence to that effect which could be inserted immediately after the third sentence in paragraph 47 of document CCPR/C/42/CRP.1/Add.19.

93. It was so decided.

94. The CHAIRMAN invited the Committee to consider the composition of the working groups. As was customary, the Working Group on Communications would in principle consist of five members, who would be Miss Chanet, Mr. El Shafei, Mr. Lallah, Mr. Ndiaye and Mr. Prado Vallejo, and the Working Group under article 40 of the Covenant would consist of four members, who would be Mr. Aguilar Urbina, Mr. Myullerson, Mr. Sadi and Mr. Wennergren. Some members of the Committee had already indicated that they might not be able to take part in meetings of the working groups. Accordingly, he would ask Committee members to inform the secretariat as soon as possible which dates would be convenient for them, so that it could make the necessary arrangements. Every member of the Committee should be prepared to take part if required, in the two working groups for the reason just indicated.

95. It was so decided.

96. Mr. WENNERGREN suggested that since the Committee did not yet know how the future Working Group under article 40 was to be constituted, it could request the secretariat to divide the task of drafting the lists of issues to be taken up in connection with the consideration of reports of States parties between the various members of the Group.

97. It was so decided.

98. The CHAIRMAN, summing up the Committee's activities in regard to communications, said that the Working Group on Communications had adopted five decisions on admissibility, two decisions under rule 91 and one decision to

deal jointly with two cases. The Committee, for its part, had not adopted any view in plenary session; it had adopted a decision that one communication was to be declared inadmissible, it had discontinued examination of two cases, and had adopted four interlocutory decisions concerning a number of other cases. The Special Rapporteur had examined 28 new cases.

CLOSURE OF THE SESSION

99. After an exchange of courtesies, the CHAIRMAN declared the session closed.

The meeting rose at 12.50 p.m.

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Forty-third session

SUMMARY RECORD OF THE 1092nd MEETING

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on Monday, 21 October 1991, at 10.30 a.m.

Chairman: Mr. POCAR

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Organizational and other matters

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GE.91-17970/3836B

The meeting was called to order at 11 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the forty-third session of the Human Rights Committee. Welcoming members, he expressed the hope that Mr. N'Diaye would be able to join them towards the end of the week after his recent hospitalization, and informed the Committee with profound regret of the death at the beginning of October of Mr. Joseph Mommersteeg, who had served on the Committee for four years. All members had benefited from his experience and competence, kindness and courtesy, and had admired his devotion to the cause of human rights. He thought it would be appropriate to send a telegram to Mr. Mommersteeg's wife and family on the Committee's behalf.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CCPR/C/73)

2. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

3. The CHAIRMAN drew the Committee's attention to the proposed programme of work for the session which had been circulated by the Secretariat as a document without a symbol, and suggested that it should be considered as flexible and subject to amendment in the course of the session as necessary.

4. The programme of work was adopted on that understanding.

5. The CHAIRMAN invited the Chairman/Rapporteur of the Working Group on Communications to make a brief oral report.

6. Miss CHANET (Chairman/Rapporteur of the Working Group on Communications) said that the Group, consisting of Mr. Myullerson, Mr. Prado Vallejo, Mr. Sadi, Mr. Wennergren and herself, with Mr. Dimitrijevic in attendance at the meeting held on Wednesday morning, had held seven meetings the previous week and had managed to complete its consideration of all 17 drafts submitted by the Secretariat. It had adopted recommendations on three sets of final views, a number of decisions in favour of admissibility, a decision that a communication was partly admissible and partly inadmissible and a decision to change an admissibility decision to one of inadmissibility. The translation of drafts concerning three other cases had not been completed, the texts would only be available in the course of the first week of the session. The Working Group had also been informed that the Special Rapporteur on New Communications would submit recommendations of admissibility for six new communications. Given that situation, the Group might be able to meet in the course of the session to finalize two or three drafts, if the agenda so permitted.

7. The CHAIRMAN invited the Chairman/Rapporteur of the Working Group under Article 40 to make a brief oral report.

8. Mr. WENNERGREN (Chairman/Rapporteur of the Working Group under Article 40) said that the Working Group had held four meetings. It had consisted, at the first two meetings, of Miss Chanet, Mr. Myullerson, Mr. Sadi and himself and at the other two meetings of Mr. Dimitrijevic, Mr. Myullerson,

Mr. Sadi and himself. At the first two meetings, the Group had considered and, as appropriate, amended the lists of issues for Austria and Poland which he had drafted with assistance from the Secretariat. The following two meetings had been devoted to the list of issues for Ecuador as prepared by the Secretariat, with amendments and revisions proposed by Mr. Sadi, and the formal recommendations on the methods of work of the Committee under Article 40 of the Covenant. The Committee had previously been unable to examine those recommendations in full and the remaining four paragraphs were to be discussed at its current session. The Working Group had had little to add to the Secretariat's draft but had prepared a paper on the preparation of comments which would be submitted to the Committee for consideration together with the four paragraphs still outstanding.

9. Mrs. HIGGINS said that when the Committee had adopted its new methodology for the Working Group under Article 40 whereby an individual rapporteur would do preparatory work, it had agreed, as the records would show, that that person was not to be identified publicly for very obvious policy reasons: first of all, the experts worked as members of working groups or of the Committee as a whole and not as individuals; secondly, anonymity prevented a State from objecting to a list of issues because of the identity of the person who had prepared it. It was therefore regrettable that individual names had been mentioned and it was to be hoped that the Committee would revert to its established practice, as agreed earlier.

10. Mr. WENNERGREN said his recollection was that the Committee had agreed that when a delegation from a State party was present, no member of the Committee should be identified as being responsible for drafting the list of issues. However, he did not recall that the Committee had called for secrecy with regard to what had taken place during Working Group meetings. The summary records would in any event show who was responsible for drafting the lists of issues.

11. The CHAIRMAN suggested that the Committee should postpone its discussion until the summary records had been consulted. Consideration of the matter could perhaps be resumed when the Committee came to discuss methods of work.

12. Mr. EL SHAFEI asked whether the secretariat had received the supplementary report which the Committee had requested during its consideration of Iraq's second periodic report. As far as he knew, no new report had been submitted. Noting also that it was proposed to devote three meetings to the consideration of Iraq's third periodic report, he wondered whether the Committee could complete its work in two meetings and use the third to discuss other matters such as the World Conference on Human Rights, for which only one meeting had been scheduled, and communications, given the heavy workload in that area.

13. The CHAIRMAN expressed the hope that the Committee might be able to complete its work on State party reports in two meetings where several of the reporting countries were concerned to enable it to devote more time to other matters. As to Iraq, his recollection was that the Committee had not asked the Iraqi Government to submit more written information but had suggested that since several issues raised by the Committee at its previous session had not been properly elucidated, the Iraqi Government might provide oral clarification when presenting its third periodic report.

14. He next invited the Committee to consider, section by section, the lists of issues relating to the reports of Austria, Poland and Ecuador. The lists for Austria and Poland had already been sent to the respective Missions in accordance with the Committee's usual practice and any changes would have to be forwarded too.

List of issues to be taken up in connection with the consideration of the second periodic report of Austria (CCPR/C/51/Add.2)

Section I: Constitutional and legal framework within which the Covenant is implemented (article 2 (2) and (3))

Section II: Non-discrimination and equality of the sexes (articles 2 (1), 3, 24 and 26)

Section III: Right to life (article 6)

Section IV: Liberty and security of the person and the treatment of prisoners and other detainees (articles 7, 9 and 10)

15. Sections I, II, III and IV were adopted.

Section V: Right to a fair trial (article 14)

16. Mrs. HIGGINS suggested that a small change should be made to paragraph (b) to make it clear that what was required was information on the time that elapsed between the moment of arrest and the end of the trial.

17. Miss CHANET said that that was not what was intended. Information was required on the average length of criminal cases, which might not necessarily involve any arrest.

18. The CHAIRMAN noted that section IV (e) referred to the average length of pre-trial detention.

19. Mrs. HIGGINS said that in view of the comments made, she would withdraw her suggestion.

20. The CHAIRMAN said that section V would therefore remain as it stood.

21. Section V was adopted.

Section VI: Freedom of movement and expulsion of aliens (articles 12 and 13)

Section VII: Freedom of religion and expression; prohibition of propaganda for war and incitement to national, racial or religious hatred (articles 18, 19 and 20)

Section VIII: Freedom of assembly and association (articles 21 and 22)

Section IX: Rights of persons belonging to minorities (article 27)

22. Sections VI, VII, VIII and IX were adopted.

23. The list of issues as a whole was adopted.

List of issues to be taken up in connection with the consideration of the third periodic report of Poland (CCPR/C/58/Add.10 and Add.13)

Section I: Constitutional and legal framework within which the covenant is implemented (article 2 (2) and (3))

Section II: State of emergency (article 4)

Section III: Non-discrimination and equality of the sexes (articles 2 (1), 3, 24 and 26)

24. Sections I, II and III were adopted.

Section IV: Right to life (article 6)

25. The CHAIRMAN asked the Chairman/Rapporteur of the Working Group under Article 40 whether there was any special reason for including item (c) in the case of Poland, since it appeared to be a question that could apply to any country.

26. Mr. WENNERGREN (Chairman/Rapporteur of the Working Group under Article 40) said that the Working Group had considered that the time was ripe for including such a question; since Poland had experienced serious pollution problems, the consideration of that country's third periodic report could offer a useful opportunity for introducing it.

27. Section IV was adopted.

Section V: Liberty and security of the person (articles 9 and 11)

28. In response to a question raised by Mr.PRADO VALLEJO concerning paragraph (b) the CHAIRMAN said that the Spanish text would be brought into line with the English version.

29. Section V was adopted.

Section VI: Treatment of prisoners and other detainees (articles 7 and 10)

30. Section VI was adopted.

Section VII: Right to a fair trial (article 14)

31. Mr. PRADO VALLEJO said that it was important to have information on the changes to be made in the new code of criminal procedure as compared with the existing code. A question to that effect might either be included in the list of issues or might be put to the Polish delegation when the report was considered.

32. Mr. WENNERGREN (Chairman/Rapporteur of the Working Group under Article 40) said that the Working Group had not the discussed the point specifically, but he understood that the intention was that the State party should indicate the comparative provisions in the existing code and the new code in order to show what improvements were being made. If the Committee so desired, a reference to the existing provisions could be included in question (a).

33. Mr. PRADO VALLEJO suggested that it should merely be asked what changes were being made.

34. The CHAIRMAN said that the text would be amended accordingly.

35. Section VII was adopted on that understanding.

Section VIII: Freedom of movement and expulsion of aliens (articles 12 and 13)

Section IX: Right to privacy (article 17)

Section X: Freedom of religion and expression (articles 18 and 19)

Section XI: Freedom of assembly and association (articles 21 and 22)

Section XII: Right to participate in the conduct of public affairs (article 25)

Section XIII: Rights of persons belonging to minorities (article 27)

36. Sections VIII, IX, X, XI, XII and XIII were adopted.

37. The list of issues as a whole, as amended, was adopted.

List of issues to be taken up in connection with the consideration of the third periodic report of Ecuador (CCPR/C/58/Add.9)

Section I: Right to self-determination (article 1)

38. The CHAIRMAN asked whether there was any special reason why the right to self-determination appeared in section I, bearing in mind that it normally followed the issue "Constitutional and legal framework within which the Covenant is implemented".

39. Mr. WENNERGREN (Chairman/Rapporteur of the Working Group under Article 40) said that the Working Group had followed the numerical order of the articles to which the issues related. The question of self-determination from a domestic standpoint had not hitherto been raised, and it was considered of sufficient individual importance to warrant its separate inclusion in section I.

40. Mr. EL SHAFEI said that the list of issues under consideration was the first in which explicit reference had been made to the exercise of self-determination at the domestic level. In the absence of any problem of

domestic self-determination in which groups of people were calling for autonomy, he would consider the appropriate article of the Covenant under which such a question should be raised to be article 25.

41. Mrs. HIGGINS said that it was a long-standing practice of the Committee to consider self-determination as having both an internal and an external aspect. Questions on internal self-determination had generally been raised only with respect to non-democratic or non-pluralistic States parties. She found it somewhat unusual to see the question addressed under section I to a country such as Ecuador, which was certainly a democratic country in which everyone could participate in the self-determination process. She would be interested to hear what had led the Working Group to raise the issue in section I.

42. Mr. SADI said that Mrs. Higgins had rightly pointed out that the right to self-determination had two dimensions - external and domestic. In its report, Ecuador had referred to the right to the exercise of self-determination in the external context of non-self-governing countries and peoples, and the Working Group had considered it appropriate to draw attention to the fact that there was a domestic aspect also.

43. Mr. PRADO VALLEJO pointed out that the question of minorities in other countries had been dealt with under article 27. There was no internal self-determination problem in Ecuador, but the question might possibly relate to the existence of indigenous populations who were to be found throughout the Andean region, in which case it should be dealt with under article 27.

44. The CHAIRMAN suggested that section I should be deleted and an appropriate addition made under section XIV.

45. Mr. AGUILAR URBINA associated himself with Mrs. Higgins' comments concerning the inappropriateness of putting such a question to a country like Ecuador, which had a long tradition of democracy and in which free elections were held.

46. The question seemed to imply the existence of movements that were seeking to separate from Ecuador. The text as it stood was unacceptable. If the idea was to ascertain what rights and protection were afforded to indigenous peoples, the issue should appear under section XIV on the rights of persons belonging to minorities.

47. Mr. MAVROMMATIS said that the Committee should revert to the former manner of drafting. He was not certain that everyone meant the same thing by the internal aspect of self-determination. To him, it meant deciding democratically on the political and economic system of the country. Any question of secessionist movements would come under the external aspect.

48. Mr. SADI said that the Working Group had never intended the question to refer to the rights of minorities or of indigenous peoples but to the right of the people to exercise self-determination and decide on the kind of social and economic system they wished to have by holding democratic elections. The Working Group had been motivated by the precedent of the United Kingdom, which had stated in its report that it observed the right to self-determination by holding periodic democratic elections.

49. Mr. ANDO suggested that the issue should be raised in connection with article 25.

50. The CHAIRMAN said it was his understanding that the Committee wished to delete section I as it stood. It might either insert new questions under sections XIII and XIV or leave it to members to put questions orally.

Section II: Constitutional and legal framework within which the Covenant is implemented (article 2 (2) and (3))

Section III: State of emergency (article 4)

51. Sections II and III were adopted.

Section IV: Non-discrimination and equality of the sexes (articles 2 (1), 3 and 26).

52. The CHAIRMAN said that he was not fully convinced that States should be asked to provide additional general information at the stage of a third periodic report. The Committee should be more specific in its requests.

53. Mr. WENNERGREN (Chairman/Rapporteur of the Working Group under Article 40) said that the Working Group had formulated the question in the manner presented in order to ascertain the situation regarding equality of the sexes in Ecuador. The issue of sex equality was very important in Latin American countries. The Working Group was aware that much information on the subject was available in the report but felt that members were bound to raise further questions and that it would therefore be better to have a preliminary statement by the State party on which such questions could be based.

54. Mrs. HIGGINS shared Mr. Wennergren's view that the Committee would wish to spend some time on non-discrimination. She did not, however, like the way in which the question was formulated. There were two solutions. One would be simply to keep the heading of section IV so that members would have a starting-point. The second alternative would be for the Working Group to formulate one very specific question in relation to information that had already been given in order to open the door to further discussion.

55. Mr. WENNERGREN said that perhaps there could be a question on developments since the report had been submitted. That would provide a starting-point for specific questions from members.

56. Miss CHANET considered that a question on non-discrimination and equality of the sexes should be retained but that rewording was needed. The State party could be asked how it intended to comply with general comment 18.

57. Mr. ANDO supported Mr. Wennergren's proposal.

58. The CHAIRMAN suggested that the question could perhaps be reformulated by referring specifically to recent developments.

59. Mrs. HIGGINS suggested that the States party might be asked to inform the Committee if there had been recent actions under articles 2 (1) and 26 since the report had been submitted, bearing in mind the Committee's general comment.

60. The CHAIRMAN said that, if there were no objections, he would take it that the Committee wished to adopt section IV as reformulated in accordance with Mrs. Higgins' suggestion.

61. It was so decided.

Section V: Right to life (article 6)

Section VI: Treatment of prisoners and other detainees (articles 7 and 10)

Section VII: Liberty and security of the person (articles 9 and 11)

Section VIII: Right to a fair trial (article 14)

Section IX: Freedom of movement and expulsion of aliens (articles 12 and 13)

Section X: Freedom of religion and expression (articles 18 and 19)

Secton XI: Freedom of assembly and association (articles 21 and 22)

Section XII: Protection of children (article 24)

62. Sections V, VI, VII, VIII, IX, X, XI and XII were adopted.

Section XIII: Right to participate in the conduct of public affairs (article 25)

63. The CHAIRMAN said that paragraph (b) under section XIV should become paragraph (c) under section XIII. The paragraph did not refer to minorities under article 27 but to article 25. The reference in paragraph 157 of the report of Ecuador was to article 25.

64. Section XIII, as amended, was adopted.

Section XIV: Rights of persons belonging to minorities (article 27)

65. The CHAIRMAN reminded the Committee that paragraph (b) had been transferred to section XIII as paragraph (c).

66. Section XIV, as amended, was adopted.

67. The list of issues as a whole, as amended, was adopted.

68. The CHAIRMAN said, in connection with an incident which had occurred in July 1991, that a letter had been received from the Permanent Mission of Morocco in which the Prime Minister of Morocco reiterated his Government's readiness to continue the fruitful dialogue with the members of the Committee and expressed the wish that all measures would be taken to ensure conditions of serenity and dignity without any provocation or manifestation by elements seeking to use the occasion for political ends unrelated to the discussion.

The meeting rose at 12.45 p.m.

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HUMAN RIGHTS COMMITTEE

Forty-third session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1093rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 21 October 1991, at 3 p.m.

Chairman: Mr. POCAR

CONTENTS

Consideration of reports submitted by States parties under article 40 of the Covenant

* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1093/Add.1.

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GE.91-17983/2385H

The meeting was called to order at 3.50 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

1. The CHAIRMAN noted the absence of the delegation of the Niger, which was to have presented its initial report at the current meeting. He accordingly suggested to the members of the Committee that the public meeting should be concluded and a private meeting should be held to examine a number of communications.

The public meeting rose at 3.55 p.m.

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25 October 1991

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HUMAN RIGHTS COMMITTEE

Forty-third session

SUMMARY RECORD OF THE 1094th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 22 October 1991, at 10 a.m.

Chairman: Mr. POCAR

CONTENTS

Consideration of reports submitted by States parties under article 40 of the Covenant

Second periodic report of Morocco (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.91-18009/3842B

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Second periodic report of Morocco (CCPR/C/42/Add.10) (continued)

1. The CHAIRMAN recalled that the consideration of the second periodic report of Morocco had begun at the Committee's fortieth session but its completion had had to be deferred until the current session.

2. At the invitation of the Chairman, Mr. Benhima, Mr. Serghini, Mr. Atmani and Mr. Laghmari (Morocco) took places at the Committee table.

3. Mr. BENHIMA (Morocco) said that the participation for the first time in the Moroccan delegation of Mr. Serghini of the Directorate of Staff Training, Codification and Public Freedoms in the Ministry of the Interior, together with that of Mr. Atmani, President of the Chamber of the Supreme Court, seconded to the Central Administration of the Ministry of Justice, showed the interest attached by His Majesty's Government to the Committee's activities and to the quality of the dialogue with Committee members. The recently-created Directorate under Mr. Serghini was principally responsible for ensuring respect for the legal provisions regarding public freedoms by the various parties concerned (the central administration, the local authorities and individuals). It also had the task of opposing any attempt to impede the application of the law.

4. Various measures had been taken during the year to speed up the country's progress towards the strengthening of a state of law that would guarantee to everyone the exercise of rights with strict observance of the attendant obligations, and would assure the national community of cohesion and harmony while respecting inviolable institutions and values. Such measures also helped to ensure the practical application of what had been achieved. The Advisory Council on Human Rights had been established in May 1990 to assist His Majesty the King in all human rights questions. In November 1990, his delegation had provided the Committee with full information on the Council's composition, operation and field of activities. It had noted the interest of Committee members in that institution, whose considerable achievements and ability to fulfil its role had made it a much-sought-after partner in various bodies. Its participation in the symposium organized in Paris early in October by the French National Commission on Human Rights, under the auspices of the United Nations Centre for Human Rights, was the most recent example.

5. On 12 July 1991, Parliament had adopted a bill for the establishment of administrative tribunals in the various regions of the Kingdom. The Act had been considered by parliamentarians of all persuasions as an achievement and an event of political importance. The Ministry of Justice was taking steps for the recruitment of staff and for personnel training to provide for the operation of those new courts. In accordance with the suggestions and recommendations of the Advisory Council on Human Rights, His Majesty's Government had submitted to Parliament a bill for the amendment of various articles of the Code of Penal Procedure designed in particular to reduce the

length of police custody and pre-trial detention. The bill had been adopted unanimously by Parliament. His delegation would give further details of the Act in its replies to the questions under section VII of the list of issues.

6. Other recommendations of the Council, approved by His Majesty the King and put into effect, should lead to improved monitoring of pre-trial detention, an increase in judicial police staff, improved living conditions in detention centres, priority handling of cases of pre-trial detention, observance of time-limits for the handling of cases submitted to the Special Court of Justice, and post-mortem examinations in cases of death in custody when there were indications that the death resulted from ill-treatment.

7. In the fields of information and education and training, which played a dynamic role in the promotion of and respect for human rights, Morocco had organized seminars and round tables on human rights topics. Moroccan newspapers had gradually published the Arabic translation of the summary records of the Committee's meetings on 7 and 8 November 1990 dealing with part of the second periodic report of Morocco. They had earlier published the text of the report itself, followed by comments, observations and views of individuals, non-governmental organizations and human rights associations.

8. The teaching of humanitarian law and human rights had been extended to such institutions as the Management Training School, the Royal Police Institute, military academies and police academies. A human rights section had been established in the National Institute for Judicial Studies under the Ministry of Justice, which provided training for judicial and prison officials.

9. True to the tradition of clemency based on Islamic values, and as part of the exercise of the right to pardon which the Sovereign observed on the occasion of religious or national festivals, a number of detainees and prisoners had been released during 1991. On 12 July, for example, following an initiative by the Royal Advisory Council for Saharan Affairs, His Majesty had granted a pardon to persons who had been arrested in military operational and security areas on the ground of collusion with enemies who were a threat to the territorial integrity of the Kingdom. In August 1991, some 40 prisoners had been released before the expiry of their term of imprisonment. Those pardons had been granted as a result of a memorandum submitted to His Majesty the King by the Advisory Council on Human Rights, in accordance with the provisions of the Dahir governing that institution. All those measures had been reported to the Centre for Human Rights, whose secretariat had no doubt disseminated them as widely as possible.

10. In his address to Parliament on the opening of its autumn session, His Majesty the King had stated that the methodology of democracy was dialogue, not only for its own sake but in order to attain the desired objectives, and that Morocco's devotion to dialogue and methodology must be flexible in all phases and all fields - social, economic and political. Emphasizing the value and scope of laws regulating the exercise of individual and collective freedoms in Morocco, the King had stated that Morocco was ready to move with the times and expand its horizon with respect to human rights.

11. The CHAIRMAN thanked the representative of Morocco for his statement and invited him to respond to the questions raised in the list of issues, beginning with section VII.

VII. Liberty and security of the person (article 9)

(a) What remedies are available to persons (or their relatives) who believe that they have been detained wrongly? How effective are those remedies?

(b) How quickly after arrest is a person's family informed?

(c) What is the maximum legal period of detention without trial? Is there any provision for a regular review by a court of such detention?

(d) Has the examination of the draft reform of the Moroccan Criminal Code, mentioned in paragraph 53 of the report, been completed? If so, with what results?

12. Mr. BENHIMA (Morocco) said that it was important to distinguish between detentions that had taken place without trial or outside the judicial framework and those which followed a sentence. In the first case, irregularities committed at the pre-trial stage were strictly regulated by the Code of Criminal Procedure and other pre-trial rules laid down by the judicial authority. Any deliberate abuse of authority or any offence committed in the exercise of that authority could be the subject of criminal proceedings, but no such proceedings were taken in the case of an error in the otherwise regular exercise of such powers.

13. The second case concerned detentions following a sentence or judicial decision subsequently found to have been erroneous. In such a situation, only compensation was normally granted, but if the miscarriage of justice arose from a lack of impartiality, corruption or suppression of evidence on the part of the judge, criminal proceedings would follow. In both cases, if an error had been committed by an official on duty, action for compensation could be taken under article 79 of the Code of Obligations and Contracts. A remedy was available against any official who had committed an act of deliberate abuse, but inadvertent acts were not subject to criminal or civil punishment.

14. The question of the time taken to inform a person's family following arrest was regulated by the new Act No. 6790, which supplemented article 69 of the Code of Civil Procedure. Under that Act, the judicial police must inform the family of the arrest without delay and must submit a daily list of persons in custody to the Public Prosecutor's Office or to the court of appeal. In all cases, the attorney of the court of first instance and the judicial authorities responsible for monitoring custody must inform the family if the judicial police had not done so.

15. Mr. ATMANI (Morocco) said that Act No. 6790 amended articles 68, 69, 76, 82, 127 and 154 of the Code of Criminal Procedure to make them more liberal. Under article 68, custody could not exceed 96 hours, renewable only once on the express authority of the Public Prosecutor's Office. Under article 69, the police officer had to inform the

family of the person taken into custody of his arrest and the list of persons taken into custody had to be sent to the Public Prosecutor within 24 hours. Article 6 provided broad guarantees of impartiality for the accused person and his counsel. In the case of a flagrant offence or of failure to provide representation, the Public Prosecutor could either place the accused person in custody subject to action to carry out an interrogation, to inform him of the offence of which he was accused and to advise him that he had the right to a defence counsel; or could release him on bail. The defence lawyer had the right to attend the interrogation before the prosecutor, who must allow the accused person to be examined by a doctor if he so requested.

16. Under article 127, the accused person had to be informed of the charge against him and he could be examined by a doctor. Under article 154, remand in custody, which was used only in exceptional circumstances, was confined to two months, extendable five times subject to a special order, the reasons for the extension being given on each occasion. If no acceptable reasons were given, the detainee must be released. In the case of a flagrant crime not punishable by the death sentence or life imprisonment, the prosecutor must interrogate the accused person as to his identity and inform him of his right to a defence counsel and of the offence of which he was accused. If he was unable to appoint a defence counsel, the president of the criminal court must do so. The defence counsel had the right to be present at the interrogation, to communicate freely with the accused person and to examine the file on the case. If the offence carried a penalty of life imprisonment or death, the accused person, who enjoyed all the rights mentioned earlier, was referred back to the examining magistrate.

17. Moroccan justice was concerned to ensure respect for the body of principles supporting social justice, the principle of equality before the law, the independence of the judiciary and impartiality of jurisdiction, the competent training of magistrates, defence of victims' interests, presumption of innocence, respect for human dignity and free and equitable judgement. Liberty and security of the person were effectively and comprehensively guaranteed in Morocco.

18. Miss CHANET welcomed the Moroccan delegation. She had listened with interest to the account of the reform of penal and administrative procedures. Among the issues that had been left pending since the Committee had begun its consideration of the second periodic report of Morocco was the question of detention conditions. With respect to the detention of the Oufkir family, the Moroccan delegation had stated that the juridical conditions were left to the judgement of His Majesty the King. The Committee had pointed out that the conditions of detention for a State party were determined by article 9 of the Covenant, which required them to be regulated by law and not by the executive power. They must be neither unlawful nor arbitrary. The Committee was responsible for monitoring the performance of States parties in implementing the Covenant, particularly article 9, and the conditions of detention must not be concealed from it. She wished to know what had happened to the Oufkir family, whether they were still detained and, if so, what legal conditions governed their detention.

19. In November 1990, she had raised the question of conditions in the Tazmamart prison and the Moroccan delegation had replied that it was unaware of the existence of a secret detention centre there but would seek information on the subject. She asked what information it had been able to obtain. She also wished to know the whereabouts of the military officers sentenced on 29 March 1972 in the Skirat trial and on 7 November 1972 in the Kenitra trial. She asked whether the 61 officers concerned had been dealt with in accordance with the law and with United Nations principles, whether a list of those sentenced was available, and the date of any releases or deaths. According to her information, 24 had died and the fate of the remaining 37 was unknown.

20. Mrs. HIGGINS said that she had listened with interest to the introductory comments and replies of the Moroccan delegation. She had understood Mr. Atmani to say that when an abuse had taken place in custody proceedings, a remedy would be available, but that there was no remedy in the case of error. She would be interested to know what difference there was between an abuse and a mere error in proceedings.

21. On question (c), the Moroccan delegation had explained that express consent was needed for any extension of custody beyond the permitted time, but she had been disturbed to hear that the initiative lay with the prosecution. She understood that the Court of Penal Procedure limited the length of detention without a written order to 48 hours with a 24-hour extension, but that there could then be further virtually unlimited 24-hour extensions by reference to the judiciary. She asked whether such extensions were monitored and what percentage of persons arrested were subject to such extended custody. The extended periods could be doubled in the case of a person suspected of having endangered the security of the State. She understood that articles 152-165 of the Code of Criminal Procedure provided that a person could be held in preventive detention for four months before being brought to trial, and the Moroccan delegation had explained that five extensions were permitted, after which the person concerned had to be released. That meant that a person could be held for nearly two years, which seemed excessively long by normal standards and in the light of the requirements of article 9 (3). She asked what percentage of prisoners were kept in such extended detention.

22. She was also concerned about the lack of access to legal counsel, families and medical examinations in the preliminary phase. There was no right to representation by a lawyer before the accused person was brought before an investigating judge in a court of first instance. Access to counsel was critical for controlling abuse, and because judges relied on official police reports for their decisions. Under article 291 of the Code of Penal Procedure, a police statement had to be accepted as evidence unless there was proof to the contrary. That not only ran counter to the burden of proof requirements under article 14 (2) of the Covenant but was of deep concern when confessions might be obtained under torture or when there was doubt as to the propriety of the police's conduct. She asked whether the new bill limiting the duration of pre-trial detention and preventive detention had yet come into effect and, if not, what was the reason for the delay. What provisions did it contain with respect to time-limits, access to lawyers and the question of police statements accepted as evidence?

23. On the question of the three prisons about which the Committee had expressed anxiety - Tazmamart, Kalla M. Gouna and Derb Moulay Cherif - she understood that there had been some releases from Tazmamart but she wished to know what prisoners remained, whether those held there had been imprisoned subsequent to charges and a trial, whether the prisons could now be visited and whether they were now under the jurisdiction of the Ministry of Justice. The Moroccan delegation had stated in 1990 that there were no such prisons within the prison system, but she wished to know whether they had now been brought within that system.

24. Mr. SADI said the fact that Morocco had sent such a high-level delegation was proof of the importance which it attached to its relations with the Committee. He hoped that in future the Moroccan delegation would also include people who could provide information regarding the practical procedures followed in Morocco so that the dialogue could proceed beyond the level of theory. He welcomed the reforms to Moroccan law which had been described.

25. In his view the problem lay not in Government policy but in the discrepancies between policy and the application of the law. Available information indicated that there were gaps and the question was therefore to identify the causes that had produced those discrepancies even after new procedures had been introduced. He would like to know in particular whether the discrepancies might be due to the fact that the police were not fully aware of the new laws and policies and the fact that the country's international obligations had the force of law in Morocco. It seemed that attempts were being made to provide training courses for the police and he hoped that those would help to reduce the gaps. He would however welcome examples of proceedings taken against the police in cases of arbitrary detention and of disciplinary measures applied.

26. Mr. PRADO VALLEJO said that the issues raised in section VII were among the most controversial in terms of the protection of human rights in Morocco and were the cause of much concern; it was his earnest hope that the delegation of Morocco would provide some explanations with particular reference to detainees.

27. In general it would seem that Moroccan law was consistent with the Covenant but, as Mr. Sadi had pointed out, there was a gap between law and practice, particularly on the issues of detention, arbitrary imprisonment, protracted proceedings and remedies, where there was much room for improvement.

28. His first question was whether there were currently or had been in the recent past secret detention centres. A fundamental principle of the Covenant was that detention must be in public places. There were reports that there were such secret detention centres in Morocco at Tazmamart and also in Casablanca and Rabat and that former military personnel continued to be detained there without their relatives or the population at large knowing anything about them. For example, it had been reported that 61 former military personnel had been detained at Tazmamart but that some had died during detention.

29. There had also been reports of very protracted detentions, including arbitrary detentions, in some cases going beyond the length of the sentences imposed and lasting as long as 15 or 17 years. He would like to have an explanation which would also cover cases of death in detention.

30. He had noted that the Criminal Code of Morocco had been amended and that reforms appeared to have been introduced in criminal procedures. In that connection, he would like to know whether any of the amendments had led to reforms in the field of preventive detention.

31. He would also like to know whether there were currently any political detainees and, if so, how many. There had been gratifying reports of releases, but it seemed nevertheless that there were still a number of political detainees. He understood that, towards the end of 1990, hundreds of persons had been detained in connection with demonstrations. He would like to know whether such detainees had been released and, if not, how many remained in detention.

32. He would also welcome information on conditions in places of detention. Experience suggested that, during protracted periods of detention, police abuses and torture were likely to occur. That issue required further scrutiny by the Committee. He would also like to know what measures had been taken to investigate and punish the perpetrators of such abuses. It was the responsibility of the State to end any policy on the part of the police involving abuse of the right to liberty and security of person. He would like to know what progress had been made in that field and the policy which was being followed.

33. Mr. MYULLERSON said that he had several questions regarding section VII. It was his understanding that a person could be held in preventive detention for up to two months and that the period could be extended five times, making a possible total of one year. He would like to know what was meant by preventive detention in Morocco and who were liable to be subjected to it and for what crimes. Who decided that a person should be held in preventive detention and on the basis of what justification?

34. When the Committee had been considering the fate of the Oufkir family a year earlier, he had been surprised that the delegation of Morocco had claimed that the matter was a domestic affair. He would like to know the current position of the Moroccan authorities on that issue.

35. He welcomed the freeing of detainees under a royal amnesty, but that act implied that there were in fact political prisoners. He would like to know who would qualify as a political prisoner.

36. Mr. MAVROMMATIS, noting the contribution that Morocco had made to human rights in terms of standard-setting and assistance to various treaty bodies, said it was natural that the Committee should expect close cooperation from a country which had already done so much. He thanked the delegation of Morocco for the additional updated information which it had provided.

37. His first question related to the issue of remedies: he would like to know whether there was a procedure, similar to habeas corpus or amparo, which would permit a detainee to test the legality of his detention, particularly in cases of prolonged imprisonment. The issue was particularly relevant to the three secret prisons to which a great many non-governmental organizations had referred in their reports. It was his view that there was a need for a public inquiry into such prisons in order to elucidate the facts and to check the file of every person detained in any of them.

38. His second question was whether there was a provision in Moroccan law relating to preventive or pre-trial detention; in particular, was there a maximum period of, for example, 6 or 12 months within which a person must be brought to trial? Such a provision was contained in the constitutions of a number of countries and he would like to know whether such a provision could be introduced in Morocco.

39. On the issue of remedies, it had been reported that in Morocco magistrates could, in certain circumstances, be imprisoned. Such action would be contrary to the principle that the immunity of justices from arrest was an important means of safeguarding the independence of the judiciary.

40. In conclusion, he would welcome elucidation of paragraph 57 of the report, which seemed to imply that a person could be imprisoned for failure to pay a debt.

41. Mr. AGUILAR URBINA welcomed the information furnished by the delegation of Morocco, particularly that relating to legal developments which demonstrated greater respect for human rights.

42. He was however concerned by reports from sources, including the United States State Department, to the effect that rights ostensibly guaranteed by Moroccan law were often gravely violated. There were allegations that the terms of the Convenant, particularly regarding police custody and pre-trial detention, were not being complied with and that torture continued to be inflicted on detainees. Since 1969, in cases involving State security, article 78 of the Criminal Code had empowered magistrates to extend pre-trial detention for as long as necessary, and there seemed to be no specific time-limit for it. In that connection he referred to the case of the Oufkir family who had apparently been released but had been denied the right to a passport and continued to be kept under surveillance. He would like to know the attitude of the Moroccan authorities in such cases.

43. In regard to the three secret prisons, his latest information was that 30 of the 61 prisoners concerned had died but that one had been released and was going to the United States with his American wife. Mr. Atmani had promised to provide the Committee with information on that point and he would like to know the current situation.

44. The practice of detaining prisoners beyond the period of their sentences must be illegal as it represented arbitrary detention. He would like to know where those prisoners were being held and why they had not been released.

45. The Moroccan delegation had said that where there was abuse in cases of preventive detention there was a remedy but that in cases of error there was no remedy. He joined Mrs. Higgins in asking what the distinction was between error and abuse.

46. It appeared that article 291 of the Criminal Code provided that a statement by the police was accepted as evidence unless proof to the contrary was produced by the accused. That was not in accordance with the Covenant and in fact was virtually equivalent to conviction before trial.

47. Noting that paragraph 57 of the report of Morocco related to imprisonment for inability to fulfil a contractual obligation, he asked how article 11 was implemented in practice in Morocco.

48. Mr. FODOR said that paragraph 52 of the report seemed to imply that the duration of remand in custody depended on the penalty for the offence and not on either the complexity of the case or on the demands of the investigatory process. He would like to know how that situation could be reconciled with the principle of presumption of innocence.

49. It had also been reported that individuals who were not suspected of any crime had been detained by the police in order to compel the appearance of relatives who were the real suspects. He would like to know whether that practice continued to exist and whether statistics relating to it were available.

50. Mr. EL SHAFEI expressed pleasure that the Committee's dialogue with the delegation of Morocco had been resumed. He welcomed the provisions reportedly introduced to ensure the enjoyment of human rights in Morocco and the efforts made by Morocco's representatives in international forums in support of international instruments.

51. He noted that the report submitted by the Government of Morocco, in its discussion of liberty and security of person (art. 9 of the Covenant), made no reference to the supervision of detention centres but confined itself to a consideration of remand in custody. Remand in custody was the first stage of detention; it was and should continue to be restricted in time and ought to be carried out under judicial supervision. However, the period of remand in custody authorized before an extension had to be sought from the Prosecutor's Office, which under the 1959 Code of Criminal Procedure had been 48 hours for a serious crime or offence against the security of the State, had been doubled by an amendment to that Code adopted in 1962 and further extended by a 1972 law. The number of times such periods of remand could be renewed now also appeared to be unlimited. Such practices dangerously restricted the right to liberty and security of person. It therefore appeared that the law in force in Morocco was at variance with article 9 of the Covenant. What procedures were available to the Moroccan authorities to overcome those discrepancies? What steps were being taken by the authorities to avoid violations of the provisions regarding remand in custody? What rights were enjoyed by detainees? Were the authorities taking the necessary steps to apply United Nations principles to protect all persons in custody during their

detention? What steps were being taken by the authorities to inform the families of detainees? Did the authorities take disciplinary action against the persons concerned in cases where ill-treatment or torture of detainees had occurred?

52. He did not expect an immediate reply to all those questions but asked that they should be taken into account by the Moroccan delegation.

53. Mr. WENNERGREN, extending a warm welcome to the delegation of Morocco, said he appreciated the opportunity to continue the dialogue that had begun in November 1990.

54. He was concerned by the issue of secret detention centres, which, as Mr. Prado Vallejo had said, gave rise to the utmost concern from the point of view of human rights. The existence of such centres implied that the identity of detainees was kept secret and that the detainees themselves were held incommunicado without contact with the outside world or access to legal assistance or remedies. It was difficult to understand how such detention could exist in a State governed by the rule of law like Morocco. Although detention appeared to have been regarded as a matter solely for the Executive, the Constitution did not seem to make any provision for establishment by the Executive of secret detention or the use of extraordinary measures to protect State security. It was, perhaps, a firmly established constitutional practice in Morocco that the King had a certain number of prerogatives not explicitly acknowledged by the Constitution and would be fully entitled to establish secret detention by the exercise of such prerogatives. In that case, however, would it not also be true that the exercise of such prerogatives by the King should also be expected to comply with the Covenant?

55. Mr. ANDO, thanking the Moroccan delegation for resuming its dialogue with the Committee, welcomed the information it had provided on recent developments in the field of human rights protection.

56. He endorsed most of the questions that had been asked by other members of the Committee, and was particularly concerned, like Mr. Mavrommatis and Mr. Aguilar Urbina, about the possible existence of imprisonment for debt (para. 57 of the report).

57. He further considered that when reference was made to detainees and political prisoners, the existence of political prisoners of Western Saharan origin should not be forgotten. According to information in his possession, disappearance and even death of such political prisoners had occurred. He asked whether that information could be corroborated and, if so, whether any investigation had been carried out.

58. Mr. HERNDL said he was grateful to the delegation of Morocco for giving the Committee the opportunity to pursue the dialogue started the year before.

59. While acknowledging that the Government and Parliament of Morocco were endeavouring to improve a situation that had seemed unsatisfactory in certain respects in the past, he wished to address two technical issues in the report.

60. Firstly, with regard to the authority to remand in custody, he asked what time-limit to such custody applied in the case of an accused person liable, for the reasons given in paragraph 52 (a) of the report, to be held in custody for more than a month. Further, with reference to paragraph 52 (b), was there any ultimate limit to the amount of time a person could be held in custody as a result of authorized extensions of such custody?

61. Secondly, like Mr. Mavrommatis and Mr. Aguilar Urbina, he believed that even if the authorities did not in fact detain persons for non-fulfilment of contractual obligations, the fact that the technical means for such detention appeared to exist (para. 57 of the report) implied that Moroccan law was not fully in conformity with article 11 of the Covenant. The Government might be well advised to abolish the relevant legislation, in particular the Dahir of February 1961.

62. The CHAIRMAN invited the Moroccan delegation to respond to the comments and questions by members of the Committee.

63. Mr. ATMANI (Morocco) said that most of the questions put had already been addressed during consideration of section VI of the list of issues (Treatment of prisoners and other detainees) or would no doubt be taken up again under section VIII (Right to a fair trial).

64. To reply to Miss Chanet's question on administrative reforms, the Dahir on administrative tribunals had recently been approved by the Moroccan Parliament. As a result, seven administrative tribunals would shortly be established in the seven economic regions of Morocco. The measure was intended to decentralize authority, and relieve the Administrative Chamber of the Supreme Court, by referring to the new administrative tribunals all disputes in which the State and its component administrative units were involved. The judges forming the initial panel of magistrates to sit on such tribunals would be chosen by competitive examination from among recent graduates in public law and would then follow a two-year course specially designed for them, and including instruction in all aspects of human rights, at the National Institute for Legal Studies.

65. He informed the Committee that Mrs. Oufkir and her children had been freed; to his knowledge no administrative measures had been taken to restrict her freedom of movement. The question of the army officers in detention was in the process of settlement.

66. To answer a question from Mrs. Higgins, whenever an official acted wrongfully with intent there was abuse; when the act was unintentional it constituted an error. Several articles of the Moroccan Criminal Code, in particular articles 105, 106 and 107, made provision for compensation and redress, while book III of that Code dealt with crimes and offences against the liberties and rights of citizens, inter alia abuses by officials in the exercise of their duties. Compensation for damage suffered as a result of a wrongful judgement was covered by article 620 of the Code of Criminal Procedure. Further, the Code of Obligations and Contracts (Dahir of 12 August 1913) in its articles 61, 77, 78, 79 and 80, made provision for compensation for obligations resulting from faults and misdemeanours,

including coverage of the responsibility of the State for faults committed by its agents in the exercise of their duties. It provided for compensation, treatment and rehabilitation for the victims of illegal acts where their condition was a direct result of such acts. Everyone in Morocco was thus protected by the law against torture and other cruel, inhuman or degrading treatment or punishment and had access to legal remedies providing fair, equitable and adequate compensation.

67. The duration of police custody was in principle 24 hours, extendable to a maximum of 48 hours. Application for an extension had to be made to the Prosecutor's Office by the police, and all persons taken into custody by the police reported to that office within 24 hours. In cases involving the security of the State the police might hold a person in custody for 96 hours, but that period was only extendable a single time. When a case was under investigation, the period of remand in custody was two, not four months. That two-month period could be extended five times to an overall maximum detention in custody of one year. Law No. 6790, currently in the process of promulgation, provided that the family of a person held in police custody should be informed by the police or the Prosecutor's Office of the arrest within 24 hours. It also provided, in the case of minor offences, that police statements would be conclusive but that in the case of criminal offences, police statements would form only part of the body of evidence, it being the court proceedings that would decide the guilt or innocence of the accused.

68. He assured Mr. Sadi that practices in Morocco were in accordance with the law since otherwise they would be subject to criminal proceedings, which dealt severely with contempt of the law. Proceedings had already been taken against officials accused of abuses and a list of such persons had been submitted to the Committee at its previous session and also given to Amnesty International.

69. With respect to Mr. Prado Vallejo's remarks, the King had reaffirmed, at the opening of the autumn session of Parliament, that Morocco intended not only to respect human rights but also to implement them in practice. Morocco followed the Islamic tradition of tolerance, tolerance not only towards the Islamic community but also towards all other communities within Moroccan territory. Proof of that had been given by the support shown to the King on his visit to North America by the Jewish community in the United States and Canada. Moroccan law was in conformity with accepted standards. If any evidence could be produced of practices contrary to such standards he would be pleased to submit it to his Government. As to the secret detention centres mentioned by some members of the Committee, he could, as an official in the Ministry of Justice, affirm that none existed under the jurisdiction of that Ministry. No centre in contravention of the law was in existence at the present time. Any extension of a period of custody had to be requested in due form from a prosecutor's office and carried out by order of an examining magistrate. That order was moreover open to appeal.

70. The reform of the Criminal Code, which was in fact a reform of the Code of Criminal Procedure, was now complete. Following incorporation of the amendments attendant on adoption of Law No. 6790, which concerned the application of human rights, it would be submitted to Parliament.

71. A specific question had been asked with respect to political prisoners. There had been violations of law and order, acts of rebellion and action by gangs of miscreants in Morocco, but their perpetrators had been charged under the Criminal Code for breaches of ordinary law. Like many European countries, Morocco did not recognize political offences. When criminal offences were committed, regardless of whether they were politically motivated or not, their perpetrators were charged under the ordinary law. As far as torture was concerned, Morocco had signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and torture was punishable under the Moroccan Criminal Code.

72. All persons had the right to leave Morocco and to return there. The Royal Decree of August 1981 had concerned detainees that had been arrested for violations of ordinary law that affected public order, the security of the State, acts of rebellion and gangs of miscreants.

73. In reply to Mr. Wennergren's questions about secret detention centres, the Ministry of Justice had various categories of prisons but he was not aware of any secret detention centres. A person placed in incommunicado detention could only be so committed on the orders of an examining magistrate at the request of the prosecutor, and appeals were possible. The royal right of pardon, which had its counterpart in countries throughout the world, was established by article 34 of the Constitution. In Morocco pardon could be granted in two ways, in the customary way on the occasion of national or religious holidays when the King was presented with a list of names by the Pardon Commission on the recommendation of the prison authorities, and when sought directly by any individual at any stage.

74. Imprisonment for debt, a question raised by Mr. Ando, could only occur after a series of other measures had been taken, such as seizure of assets. The only type of debt for which imprisonment was a penalty was debt to the State, either for taxation or customs reasons. The Moroccan fiscal authorities, like their counterparts throughout the world, had extensive powers where taxes were not paid.

75. Mr. Fodor had raised a question concerning the principle of presumption of innocence. That principle was fully respected in Morocco, where nobody could be declared guilty without a trial. Morocco followed the same rules as those adopted by almost all European countries with regard to preliminary inquiries. In reply to Mr. El Shafei, police custody was for a period of 24 hours and could be extended to 48 hours. It was subject to the control of the prosecutor whose duty it was not only to monitor custody but also to visit places of custody, which he could do at any time without notice. Cases of abuse were normally dealt with first of all by administrative measures but could also be the subject of criminal measures, and any official or other person found guilty of abuse could be ordered to pay compensation by a civil court.

76. Miss CHANET thanked Mr. Atmani for the information he had provided in reply to her questions. She was particularly pleased to hear of the reform of the administrative tribunals. She also welcomed the news about the special training of judges in the area of human rights. She took it from Mr. Atmani's assurances that there were no administrative restrictions on the freedom of

the Oufkir family and that they were now able to move around freely in Morocco and to travel abroad, in accordance with articles 9 and 12 of the Covenant. That news was particularly welcome. The position of the 61 persons sentenced 20 years previously continued to cause concern, however, in spite of Mr. Atmani's assertion that the matter was being settled. She wondered precisely what that meant and what had happened to those people in the meantime. Could the Committee assume that it would soon learn what their exact penal situation was? In response to her question on secret detention centres, Mr. Atmani had replied that he represented the Ministry of Justice and that no secret detention centre appeared on the Ministry's list. The Committee however was dealing with the report of Morocco and the Moroccan delegation should have a government representative who was in a position to provide the information requested. The Committee could not accept the lack of a reply from the Ministry of Justice as being the end of the matter.

77. Mr. AGUILAR URBINA congratulated the Moroccan Government on the measures taken to decentralize the administrative tribunals. He endorsed the sentiments expressed by Miss Chanet with regard to the Moroccan response to the issue of the 61 persons sentenced 20 years previously, and asked precisely what measures were being taken, particularly in view of the fact that more than half the people concerned continued to be detained in spite of having served their full sentences. Until they were released, the problem remained unsolved. He was particularly concerned about their continued intention and asked why detention could be extended indefinitely in those cases when remand in police custody could only be extended by 24 hours. He also endorsed Mr. Ando's comments concerning prisoners of Western Saharan origin. While the Government was to be congratulated on releasing 300 of them, why had the other 500 not been released and where were they? In that connection, the Moroccan delegation should bear in mind that where no information on a detainee existed, the Committee considered that it was dealing with a potential violation of article 6 on the right to life. On the subject of secret detention centres, he endorsed Miss Chanet's call for a reply from the Government.

78. Mr. WENNERGREN observed that he had learned very little from Mr. Atmani's replies to his questions. If the Ministry of Justice had no knowledge of the secret detention centres, some other Ministry or body must know. Mr. Atmani's reply had been the same as that given in November 1990 to his question concerning Tazmamart. A working paper by the Moroccan Human Rights Association had referred to the phenomenon of disappearance and the existence of secret detention camps as taboo subjects, just as he himself had described them in 1990. Perhaps Mr. Atmani's failure to answer the questions raised at the current session was because the subject was still taboo in Morocco.

79. Mr. PRADO VALLEJO expressed regret that the information given in response to his questions was incomplete and that many of the replies confirmed that there was indeed a contradiction between law and practice in Morocco. The situation was most obvious in the statement that no secret detention centres existed, and in the inability of the Moroccan delegation to deny that Tazmamart had once existed, even though many of its detainees had now been transferred elsewhere while others had died. He also had information on the Derb Moulay Cherif centre in Casablanca and the Villa Mokri in Rabat, centres

which were well known to exist. If information had not reached the Ministry of the Interior, it might suggest that such centres were perhaps in police or other hands, and beyond the control of the Ministry. It was very obvious however that if they did exist, they had some sort of official backing, not least in the form of economic support. He therefore urged the Moroccan delegation to check on those centres. As far as the assertion that there were no political detainees in Morocco was concerned, it was possible that such people had been imprisoned under criminal law. His particular region of Latin America was very familiar with political crimes and had a number of conventions and specific legislation which made a clear distinction between political prisoners and common criminals. According to the law of his country, the difference lay in the objectives of the persons concerned: attempting to subvert a government, for instance, was a political crime, but other offences with political aims, such as the assassination of a head of State, were treated as criminal offences. In view of those distinctions, he wondered whether the people who continued to be detained long after their prison term had been served were still political prisoners. In addition, he wished to know what remedy a detainee had, and what procedures could be implemented, to put an end to arbitrary and prolonged detention.

80. Mr. MAVROMMATIS said that many of his questions had gone unanswered while others had been answered in conjunction with replies to questions put by colleagues. He particularly sought a reply to his question on habeas corpus and to his question as to whether magistrates or judges were immune from civil and criminal proceedings for any act or omission in the course of their duties. Lastly, he sought further clarification on the remedies available to detainees who challenged the lawfulness of their detention.

81. Mr. SADI said that in response to his general question, he had been assured that there were no gaps between law and practice in Morocco just as there were no gaps between Moroccan law and the Covenant. Those were far-reaching assurances which no country to his knowledge had ever been in a position to make and he wondered whether Mr. Atmani wished to reconsider his replies and explain how the gaps which doubtless did exist had been dealt with in view of the new policy to promote human rights in Morocco.

82. Mr. ATMANI (Morocco), replying to the specific points raised, said that Miss Chanet had requested information on Mrs. Oufkir. As far as he knew, Mrs. Oufkir was free to leave Morocco if she so wished but he did not know what were her intentions on that score. On the subject of the army officers in detention, one had been released and the cases of the others were currently being settled. The Ministry of Justice had no knowledge of any secret detention centres. In reply to Mr. Wennergren's claim concerning the Moroccan Human Rights Association's serious allegations against the Moroccan Government, he said that there were no taboo subjects under Morocco's Penal Code and the Government, in full knowledge of the facts, strenuously denied the allegations. Mr. Prado Vallejo had also referred to the problem of secret detention centres: Derb Moulay Cherif was in fact a police station in Casablanca which could be visited by anyone; the Villa Mokri was currently the headquarters of the Moroccan Red Crescent in Rabat. Anyone accused of offences with political implications was sentenced under the Penal Code, and it was the Penal Code which determined the length of sentence and the type of crime committed.

There were no prosecutions except under the Penal Code. Crimes such as attempts on the life of the Head of State or a member of his family were not considered political crimes in Morocco any more than they were in countries such as France, Belgium and Italy, with which Morocco had signed conventions. He, too, could ask a number of questions on those lines: for instance, were crimes committed to fill the coffers of a fundamentalist sect in America to be considered as political or common crimes?

83. As far as habeas corpus was concerned, Morocco followed the European procedures and also provided various guarantees which did not exist in the penal procedures of a number of other States. However, different countries had different systems: there was the Napoleonic system, another system in South America, an Anglo-Saxon system, and so on. Morocco followed the Napoleonic system. There was now little or no difference between the Moroccan Penal Code and the law in countries such as France, Switzerland, Belgium and Italy.

84. Turning to the question raised by Mr. Mavrommatis, judges in Morocco did have certain immunities. They would not, for example, appear before the police courts but instead would appear before the Higher Council of the Magistrature, which would decide whether or not a judge had committed an offence. In the affirmative, he would appear before a higher court.

85. Turning to Mr. Sadi's points, he reiterated that there was no gap in Morocco between law and practice, although blunders were committed by the police as everywhere else. He personally knew of no proceedings brought against a judge in Morocco for serious irregularities, and judges were independent of the Executive and of the Ministry of Justice. The Ministry could only address instructions to the Prosecutor's Office and the Prosecutor was free to disregard them if he deemed them to be unfounded.

86. Mr. SERGHINI (Morocco) replying to the questions on the alleged disappearance of people from Western Sahara, said that the Moroccan authorities had been informed of a number of requests for files on disappeared persons from that area, and were examining all those cases with the greatest care. Those files, far from being reliable, had caused a number of problems. First of all, the figures varied enormously from 40 to 102 to 300 and now to 800. In fact a document recently received from a United States humanitarian organization had referred to 880 people missing. Preliminary studies had shown that those alleged disappearances dated back to a period when Morocco had had no administration over Western Sahara. The province had reverted to Morocco in 1976, but disappearances had occurred in 1975 when the territory had been administered by Spain, and there had been disappearances since then when the area had been under Mauritanian jurisdiction. Disappearances had also occurred in places which had reverted to Morocco but were still not fully under Morocco's control. Difficulties also arose from the fact that a large number of the people were from Tindouf and it had not been possible to confirm whether or not they were still in Tindouf or elsewhere. There was also a major problem regarding names and spellings. Such people were only identified by their tribe, and additional problems were caused by the fact that they were nomadic. Furthermore, there was a considerable problem of identification and there were almost certainly on all those lists of disappearances people who

were currently in Mauritania or Algeria, or who were even on the list of electors. The Committee could nevertheless be assured that the Moroccan authorities, in spite of the attendant difficulties, were trying to examine the cases, and from a file totalling 102 cases, had already determined that two persons had died from natural causes, and that six had been released; 94 cases were still being worked on for which there was as yet no information. It was particularly important to bear in mind that the United Nations peace plan for Western Sahara specifically aimed at solving the question of prisoners and missing persons, and he expressed the hope that more information could be provided on the subject in the near future.

87. The CHAIRMAN thanked the Moroccan delegation for its additional clarifications. The Committee had thus completed its consideration of section VII of the list of issues.

The meeting rose at 1 p.m.